## CCRB INVESTIGATIVE RECOMMENDATION

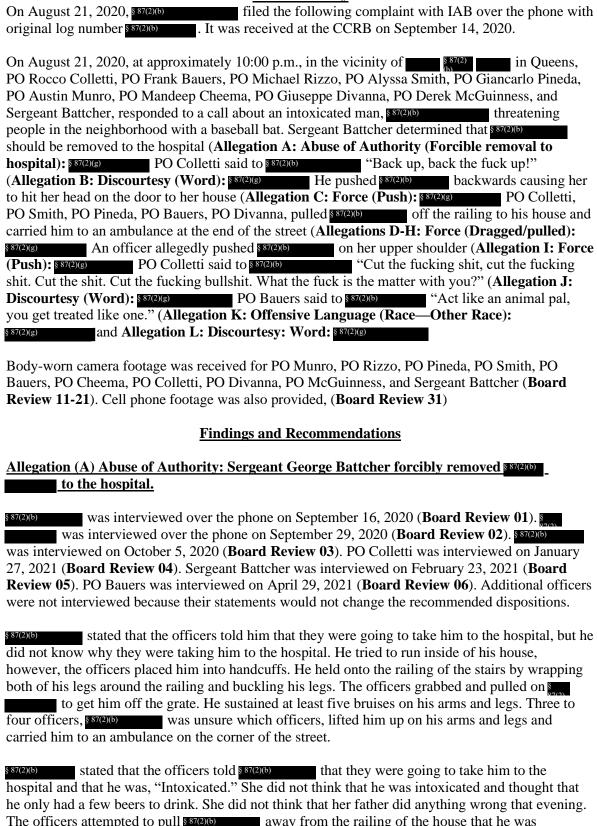
Investigator:		Team:	CCRB Case #:	$\overline{\mathbf{V}}$	Force	$\checkmark$	Discourt.	U.S.
Jackie Manginelli		Squad #10	202006219	☑	Abuse	$\square$	O.L.	✓ Injury
Incident Date(s)		Location of Incident:	<u>I</u>		18 N	Mo. SO	DL	Precinct:
Friday, 08/21/2020 10:00 PM		Front of § 87(2)(6)			5/-	4/2022	2	102
Date/Time CV Reported		CV Reported At:	How CV Reported	:	Date/Tim	ne Rece	ived at CCI	RB
Fri, 08/21/2020 11:08 PM		IAB	Phone		Mon, 09/	/14/202	0 10:44 PM	1
Complainant/Victim	Type	Home Addre	ess					
Witness(es)		Home Addre	ess					_
Subject Officer(s)	Shield	TaxID	Command					
1. SGT George Battcher	01136	954530	102 PCT					
2. POM Rocco Colletti	08083	963461	102 PCT					
3. POM Frank Bauers	18837	959410	102 PCT					
4. POM Giancarlo Pineda	23274	962694	102 PCT					
5. POF Alyssa Smith 6. An officer	31382	965537	102 PCT					
	22115	050500	102 DCT					
7. POM Giuseppe Divanna		959599	102 PCT					
Witness Officer(s)	Shield N		Cmd Name					
1. POM Austin Munro	26610		102 PCT					
2. POM Michael Rizzo	26659	965463	102 PCT					
3. POM Mandeep Cheema	25433		102 PCT					
4. POM Derek Mcguinness	06620	965793	102 PCT					
Officer(s)	Allegatio	on			Inv	vestiga	tor Recon	nmendation
A.SGT George Battcher	Abuse: S	dergeant George Battches to the hospital.	r forcibly removed§	87(2)(	b)			
B.POM Rocco Colletti		esy: Police Officer Rocc	o Colletti spoke					
C.POM Rocco Colletti		olice Officer Rocco Coll	etti used physical fo	rce				
D.POM Rocco Colletti		olice Officer Rocco Coll	etti used physical fo	rce				
E.POM Frank Bauers	_	olice Officer Frank Baue	ers used physical for	ce				
F.POM Giancarlo Pineda		olice Officer Giancarlo I	Pineda used physical	l for	ce			
G.POF Alyssa Smith	_	olice Officer Alyssa Smi	th used physical for	ce				

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Officer(s)	Allegation	Investigator Recommendation
H.POM Giuseppe Divanna	Force: Police Officer Giuseppe Divanna used physical force against § 87(2)(b)	
I. An officer	Force: An officer used physical force against § 87(2)(b)	
J.POM Rocco Colletti	Discourtesy: Police Officer Rocco Colletti spoke discourteously to §87(2)(b)	
K.POM Frank Bauers	Off. Language: Police Officer Frank Bauers made remarks to based upon race.	
L.POM Frank Bauers	Discourtesy: Police Officer Frank Bauers spoke discourteously to §87(2)(b)	

## **Case Summary**



clutching onto with his arms. The officers picked \$87(2)(6) up by his arms and legs and carried

him to an ambulance on the street.

and carried him to an ambulance. He stated that four officers picked up § 87(2)(b) pushed against the officers, yelled at them, and said that he was not going anywhere. Another officer told § 87(2)(b) that \$87(2)(b) needed to go to the hospital, and he did not tell her why he needed to go. Sergeant Battcher stated that his patrol team received numerous 911 calls of \$87(2)(6) street harassing and threatening people possibly with a weapon like a baseball bat or a gun. Officers, including PO Pineda, PO Smith, PO Colletti, PO Bauers, PO Rizzo, and PO Munro arrived before him. When he arrived, \$37(2)(6) was in handcuffs and had wrapped his legs around the railing of the stairs leading to his house. §87(2)(b) was clearly intoxicated and was unable to care for himself. He thought that \$87(2)(b) was intoxicated because of the way he was acting, because he had watery bloodshot eyes, and because he smelled like alcohol. Sergeant Battcher did not recall seeing any containers of alcohol near \$87(2)(b) Sergeant Battcher thought he was a danger to himself and the others who called 911. EMTs were present on scene, but Sergeant Battcher did not recall having a conversation with them. He did not recall hearing the EMTs determine that \$87(2)(6) had to go to the hospital. He thought that \$87(2)(6) removed to the hospital based on what he and the EMTs observed. PO Smith untied and removed legs from the railing. The officers, including PO Colletti and PO Bauers, picked up and carried him to the ambulance. PO Colletti stated that there were officers and two EMTs were standing around [887(2)] PO Colletti asked the other officers what was happening, and they told him that \$87(2)(6) was intoxicated, verbally threatening his family, and that EMS said that he was good to be taken to the hospital. He did not recall the reason why EMS said he was good to go to the hospital. If EMS deems that someone needs to go to the hospital, then he would assist them in getting that person to the hospital because they are medical professionals. § \$7(2)(5) and his family did not want to go to the hospital. Sergeant Battcher was on scene during this incident. He did not remember if Sergeant Battcher spoke with EMS about bringing \$87(2)(b) to the hospital. EMS determined that \$87(2)(6) needed to go to the hospital prior to the officers removing him from the railing. PO Bauers's statement was generally consistent with that of Sergeant Battcher and PO Colletti (Board Reviews 06). PO Smith's body-worn camera captured a portion of this incident (**Board Review 11, 15**). At 04:10, she approaches a man and asks if \$87(2)(6) chased him with a bat. He confirms that chased him with a bat. She walks back towards the stoop. At 04:55, PO Smith tells the family that \$\frac{87(2)(6)}{2}\$ is going to the hospital. The collective BWC footage also corroborated Sergeant Battcher's statement that \$87(2)(b) had his arms and legs wrapped a railing and was generally refusing to cooperate with instructions and physically resisting. Detailed EVENT \$87(2)(b) (Board Review 32) showed a male caller reporting that a black male in a white t-shirt and shorts threatened him and that he had called officers earlier, but they drove by without stopping. The EVENT notes no weapons or injuries. The TRI Supervisor's Assessment report prepared by Captain Antonia Fidacaro of the 102<sup>nd</sup> Precinct notes that officers responded to a report of harassment and encountered §87(2)(6) who was visibly intoxicated and Emotionally Disturbed. Officers subsequently removed him to the hospital.

The investigation sent § 87(2)(b) HIPAA forms to the address that he provided to the CCRB in

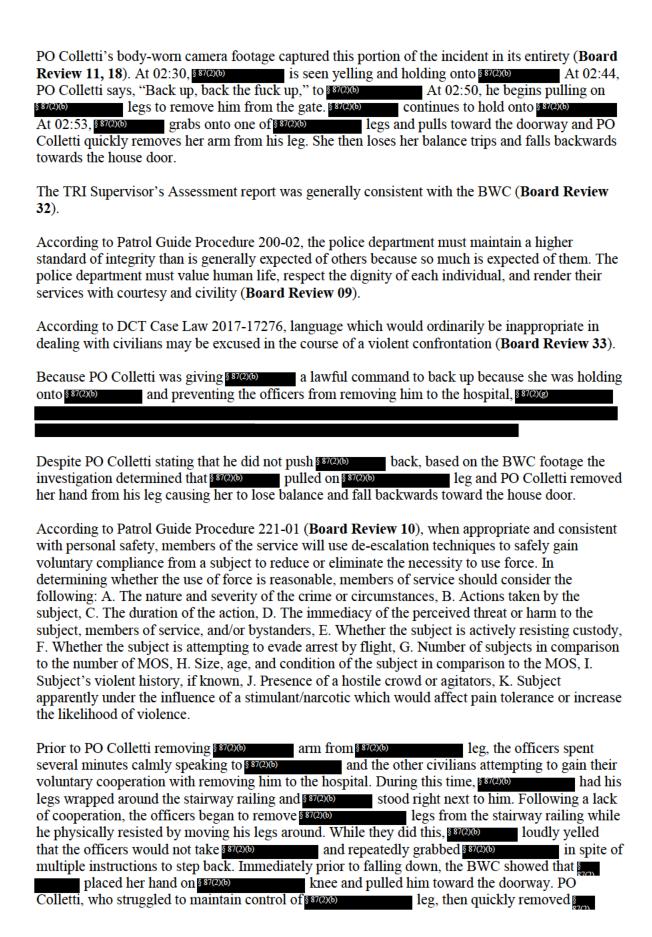
order to access his medical records from this incident and forms were returned as undeliverable (Board Review 07).

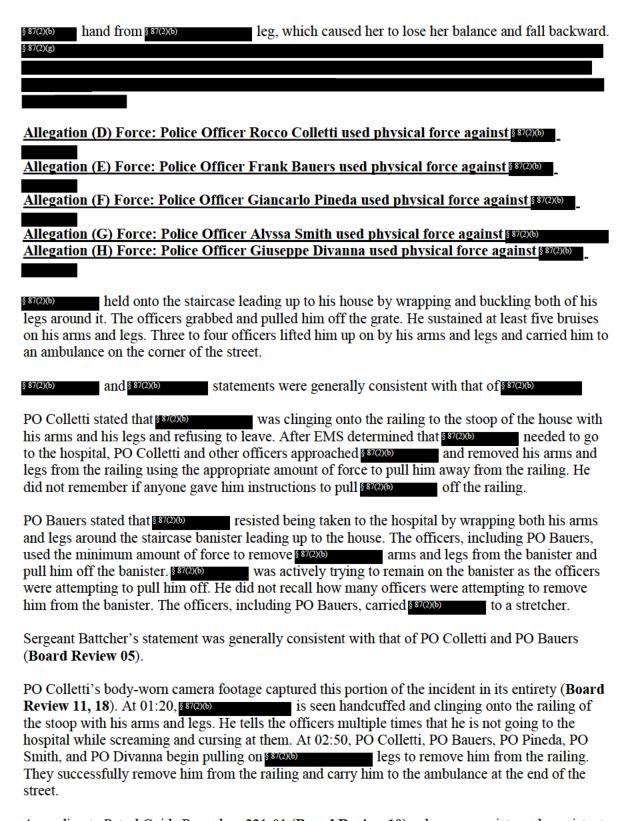
While Sergeant Battcher was not the first officer to arrive on scene, the forcible removal allegation was only pleaded against him as he confirmed he was the supervisor on scene and made the ultimate decision to remove [887(2)(6)

According to Patrol Guide Procedure 221-13, when a uniformed member of service reasonably believes that a person who is apparently mentally ill or emotionally disturbed, the person must be taken into protective custody when the person is conducting themselves in a manner likely to result in serious injury to themselves or others (**Board Review 23**).

According to Patrol Guide Procedure 216-01, when a civilian requires medical aid for any reason, including mental illness, officers must cooperate with ambulance and hospital personnel in every reasonable manner (**Board Review 08**).

While it was disputed as to whether EMS made the ultimate decision to transport \$87200
to the hospital, because Sergeant Battcher had information that was intoxicated and chasing people around on the street with a bat, \$87(2)(9)
Allegation (B) Discourtesy: Police Officer Rocco Colletti spoke discourteously to \$87(2)(6)
Allegation (C) Force: Police Officer Rocco Colletti used physical force against
stated that PO Colletti said, "Fuck off" and, using one hand, pushed stated that PO Colletti said, "Fuck off" and, using one hand, pushed on her chest near her shoulders. Stated that PO Colletti said, "Fuck off" and, using one hand, pushed on her chest near her shoulders. Stated that even fell backwards and hit her head on the side of the front door. Her head hurt and she felt dizzy. She felt so dizzy that later that evening, she fell again. Stated that evening to get her head checked out. They took X-Rays of her head and told her that there were no fractures or anything to be worried about. She was discharged from the hospital that same evening.
stated that \$87(2)(b) came out of the house and yelled at the officers, "Leave my fucking father alone." PO Colletti pushed with his right hand and said, "Fuck off of here." did not see where PO Colletti pushed on her body and only saw her fall backwards. \$87(2)(b) hit her head on the door and fell backwards into the house onto her bottom and on her side.
stated that his daughter, stopped out of the house and began to cry. She held onto stopped out of the house and began to cry.
PO Colletti recalled daughter, \$87000000000000000000000000000000000000



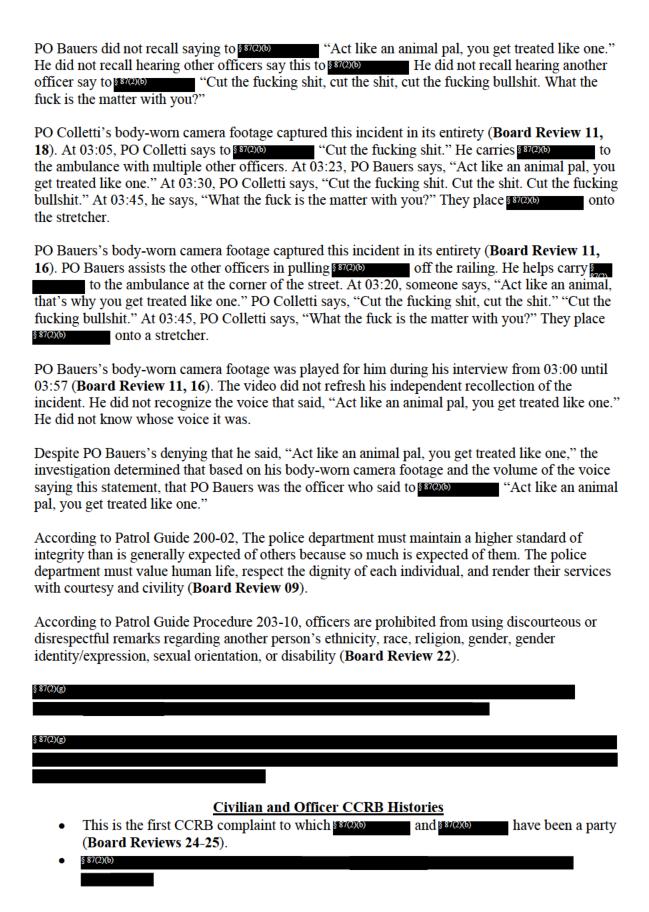


According to Patrol Guide Procedure 221-01 (**Board Review 10**), when appropriate and consistent with personal safety, members of the service will use de-escalation techniques to safely gain voluntary compliance from a subject to reduce or eliminate the necessity to use force. In determining whether the use of force is reasonable, members of service should consider the

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following: A. The nature and severity of the crime or circumstances, B. Actions taken by the subject, C. The duration of the action, D. The immediacy of the perceived threat or harm to the subject, members of service, and/or bystanders, E. Whether the subject is actively resisting custody, F. Whether the subject is attempting to evade arrest by flight, G. Number of subjects in comparison to the number of MOS, H. Size, age, and condition of the subject in comparison to the MOS, I. Subject's violent history, if known, J. Presence of a hostile crowd or agitators, K. Subject apparently under the influence of a stimulant/narcotic which would affect pain tolerance or increase the likelihood of violence.

it was determined that needed to be removed to the hospital and was actively resisting being removed by clinging onto the railing leading up to his house,
§ 87(2)(g)
Allegation (I) Force: An officer used physical force against
stated that officers brought to an ambulance. stated that officers brought to an ambulance. stated that officers brought to pick up his phone from the ground and stated did. An officer pushed on her back-right shoulder with his elbow. She did not sustain any injuries.
stated that officers picked up \$87(2)(0) and carried him to an ambulance on the street. An officer, using his elbow, pushed \$87(2)(0) on her back while they were carrying \$27(2) to the ambulance.
PO Colletti, PO Bauers, and Sergeant Battcher did not see an officer nor did they themselves push on her upper-right shoulder region using their elbow. None of them heard complain of being pushed.
Body-worn camera from all the officers did not capture this allegation (Board Reviews 11-21)
§ 87(2)(g)
Allegation (J) Discourtesy: Police Officer Rocco Colletti spoke discourteously to
Allegation (K) Offensive Language: Police Officer Frank Bauers made remarks to based upon race.
Allegation (L) Discourtesy: Police Officer Frank Bauers spoke discourteously to \$87(2)(0)
and \$87(2)(b) did not allege to the investigation that either PO
Colletti or PO Bauers spoke discourteously to second and not anced to the investigation that either PO body-worn camera footage.
PO Colletti said to (Cut the fucking shit. Cut the shit. Cut the fucking bullshit. What the fuck is the matter with you?" PO Colletti said these things in the heat of the moment to be assertive to get (S87(2)6) to calm down. He did not know if using profanity was effective. PO Colletti did not say to (S87(2)6) "Act like an animal, you get treated like one." He did not hear another officer say this to (S87(2)6)



PO Colletti has been a member of ser CCRB complaints and nine allegation							
PO Bauers has been a member of service CCRB complaints and seven allegation.							
• Sergeant Battcher has been a member of service for seven years and has been a subject in two CCRB complaints and two allegations, none of which have been substantiated.							
<ul> <li>PO Colletti and PO Bauers's employment history has been requested and will be added to the case file upon receipt.</li> </ul>							
Mediation, Civ  This complaint was not suitable for m  As of June 2, 2021, no Notice of Clair regarding this case (Board Review 27)  [\$ \$7(2)(0)] [\$\$ \$6(1)(3)&(4)] [\$ \$7(2)(0)]	m has been made to the Office o	of the Comptroller					
Squad: <u>10</u>							
Investigator: <u>Jackie Manginelli</u> Signature	Inv. Jackie Manginelli Print Title & Name	_06/23/2021_ Date					
Squad Leader: <u>Eric Rigie</u> Signature	IM Eric Rigie Print Title & Name	_ <u>7/14/2021</u> Date					

Print Title & Name

Signature

Reviewer:

Date